1895-96.
(L.R.)

File No: 101-95
Serial No. 1-10.

Sub:- Dispute regarding sale of 148. Nagarakere. Mandya District

P.7 11-98

G. R. S. IX-5]

Previous references.

1895-96
~~191~~ .
(22)

101-95

File No. ~~85-1895~~

Serial Nos. 1-10.

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-10

m. ~~Part~~ B for Sept 1898

SUBJECT.

Dispute re- the sale of S.No 148 - Nagarkere Mandya Taluk

W D 1250—GPB—30,000 - 28-1-19

Accepted

Before the Government of Mysore.

Appeal No. 177 of 1895-96

Appellant.	Vs.	Respondents
Puttasamaya, Maddur, Mandya Taluk		(1) Venkatasubbaya (2) Narnappa

—

Subject :— Dispute regarding the sale of S. No. 148 of Nagarakere, Mandya Taluk.

Posted to the 3rd Sept.
Sent to Bd Commr
23/8/98 2551
Sent to the Dy Comr
23/8/98
23.8.98

Docket-and-brief expenses
Judge
5.9.98

Before the Government of Mysore.

Appeal No. 177 of 1895-96.

Appellant.	Vs.	Respondent.
Puttasamaiya		1. Nanjundaiy 2. Narnappa.

Notices served.

Parties present.

1st C[2] ~~Appellt~~ Why did you not appeal against the Civil court decree?

Appellt - I wanted to appeal on the revenue side

Papers to be sent to 1st C[2]

5/9/95

W911.

Nos 177 & 189 1896

On a careful perusal of the Sec and the report of the Officers and Men of Summ that there was from found no further conducting the sale of 11th inst, and that a deception was practised by the Showing in collusion with the ostensible purchaser to depress the appl of the land.

The facts disclosed during the enquiry and which are set forth fully in paras 13 to 19 of the Officers' report support the appl's contention, that the sale was fictitious

There was actually no confirmation of the sale as pointed out by the Officer in para 24 of his report

in para 26 of the Masters
Report is another piece
of Evidence to prove that
the Mortgage was at the
bottom of the whole fraud
that was perpetrated on the
appt and which the sale is attacked.

The sale took place
on 26th Dec 1891 and the
appts first complaint, in
regard to it, was laid on
27th Sept 92. While this
complaint was pending
Enquiry and examination
was being carried on
between the 2nd Defdt
Office, from Nov 92 to Sept 94,
the Police authorities unofficially allowed the Patta
of the transferred to the
purchasers' name. *vide para 26 of Comm's Report*
~~as the Mortgage was declared~~

The order of the 1st Defdt
Office declaring to cancel the
sale was passed on 19th
Sept 94 - The appeal to D/Comm
was filed on 7 Jan 95 and
disposed of on 4th July 1895 - and
this appeal Petn was on 11 Sept 95.
While the proceedings in connection

Note. The appeal petn of Appt was rejd by D/Comm on Report on 5-10-95
The rejn of D/Comm on 5-10-95 was received by Appt on 2-12-95.
There has been a scandalous delay of

will this matter be taken up in the Commons Report?

with a revenue sale
were pending the final
orders of Govt & Govt, the
purchaser, without taking
steps under s 187 Cr Code,
to obtain possession of the
land purchased thro
the Govt, applied on the
basis of his alleged right under
the per sale to one
Nanjundiah and
caused the latter to
file a civil suit (No 924
of 1894-95 on the file
of the Seringapatam Munsiff
Ct) and to obtain
a decree for possession
against ~~decree~~ - The civil
proceedings are null
& void, and as held
by the Chief Ct in the
case reported at page
68, Mys LR Vol XIV. Venkata
Krishnayya vs Subbaya
Sa No 32 of 1892, a claim
based upon possession of land
alone for realisation of rev

~~connected with proceedings~~
of the kind falling under
clause (c) s 221 Mog. Act 1908
not cognizable by a Court
of Equity. The Court decree
of the Munsiff in the suit
out of which this appeal arises is
therefore not liable to be set
aside on the ground
of appeal.

For reasons already
stated I think the sale
is tainted with
fraud and cannot therefore
be upheld. It must be
cancelled and set aside.

A.T. Mukherji 8/9/20

Sub J. 2nd Class
8/9/20

Rd - 7 Nov
8-9-20

I agree - Draft
order made
9.9.20

If I remember aright the Court
in Bombay or somewhere
else has held that
where an assessment
of the whole Hindu
family is made
recognising shares
it had no power
to recognise shares
but however this
is not relevant
for the purpose of
disposing of the
present appeal

Sub J. 2nd Class.

I have read
this draft of Mr. J.
Mukherji's judgment
in appeal and
am in agreement
with the facts and
the reasons about
stated by him
for proposed
order to be made
in appeal.

8/9/20

Stamp sufficient
In time -
Sub to orders.

24-9-95

Call for a report
when received
30.9.95

Draft
30 9 95

1-R 85-95-1

(1) ~~1893~~

No. 1196 M. Rs. 177 of 95-96.

Name of Petitioner, Puttasamia Son of Hundi

Village, Maddur

Taluk, Maudya

District, Mysore

Date of Arzi, 11 - 9 - 95

Date of Receipt, 16 - 9 - 95

Date of Disposal,

No. of Enclosure, X six

ABSTRACT.

Appeals against the order of the Dy. Commr. Mysore Distd. No. 34 of 4-7-95.

The order appealed against is as follows.

Your petition of 25-1-95 urging that injustice has been done respecting the sale of your land Survey No. 148 of Nagarakere, Kudarasanahalli Hobli, Maudya Taluk.

All the records in the matter received with the French books Sub Division Officer's Yadi No. 1190 of 16-4-95 were gone through - Demand notice having been duly served on your person for the Kandayam due on your Khatelands the lands were sold according to rules sold by auction - It has been registered in the name Khate of the purchaser - Consequently nothing can be done in the matter

Register not available

of sale was invalid
Section 173 of the Rev. Code sold for Rs. 9/= that consequently the sale is fraudulent -
that he is claimed to have failed to pay the Kandayam - that he never did so -
that the one Pillay, himself and his minor brother were joint Khatedars to Survey
No. 199 - the assessment of which is Rs. 4 - that Pillay received his portion - that
on this he was asked to pay the Kandayam of the whole land - that he also submitted
a written Karpinama for his portion bearing an assessment of as. 8 - that though
the Accountant recorded his statement yet the land was not deducted from his Khate -
that on the following year a notice was served on him for the Kandayam of the
above land and also for the balance of the assessment due on his other land Survey
No. 148 - that he signed the notice, informed the Authorities that Survey No. 199 might
be sold and presented Rs. 1/8 due on his other land Survey No. 148 - that the Shanbogue
returned the Amount saying that the arrears due by him would be acquitted by the sale
realization of Survey No. 199 - that he agreed to this - that subsequently learned that the
Shekdar sold the said two nos - that Survey No. 199 did not realise the amount alleged to be
due by him & that Survey No. 148 was knocked down to Shanbogue Narnappa for Rs. 9/=
that soon after he submitted a complaint - that the Accountant investigated the matter -
that the Patil and others stated that they were ignorant of the sale of the lands - that the
Shanbogue told that he was not present at the village during the sale - that the Shekdar
told stated that the Shanbogue was present - that this matter was reported by the Accountant
that subsequently the said land Survey No. 148 was conveyed by Narnappa to Nanjundappa
the Shanbogue for Rs. 60/= that the Civil suit filed by the said Nanjundappa against him for
the possession of the land is pending - that the sale of the above nos. has not been
confirmed owing to the report of the Accountant. Raja Reddy. that it was ordered in
Mutchulka No. 6560 of 31-5-93 that they having paid the Kandayam of Survey No. 148
its Khate should be retained in their names - that which vide Proc. No. 333 of 16-9-94 states
that it has been already decided that the Khate of the land should be made in the
purchaser's name - that the Shanbogue is a bad man - that he is minor Lachmanna
that the petr. suspects that the Shanbogue has altered the Khate of his own
accord - that the Taluk Authorities seeing that the sale was irregular recovered
the sale amount from him - that out of it they deducted something & returned
the balance which he drew in June last to appear and settle back the balance - that
he has not taken back the amount. that he pays a Kandayam of Rs. 70/=
that he would not sacrifice a land worth Rs. 200/- for a Kandayam of Rs. 1/8
and that if the matter was enquired into the fraudulent conduct of the Shanbogue
would be known - and that his minor brother has also interest in the
land - Prays that the sale may be cancelled - that the Shanbogue may
be punished and that his cash may be so decided that the Authorities

A.S. No. 470 of 95-96

1196

MYSORE ... RECORDS OFFICE
PETITION DEPARTMENT
RECD. NO.
DATE 16

[illegible]

LR 101-95-2

~~LR 85-92-2~~

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition No. 1196 dated 11th September 1895 received at the Dewan's Office from Puttashamaiya, son of Huddanna, residing at Maddur, Mandya Taluk, appealing against the order of the Deputy Commr of Mysore declining to interfere with the sale of Petitioner's Khala lands at Nagarakere, Mandya Taluk is forwarded, together with its ~~seven~~ enclosures, to the Deputy Commissioner of the Mysore District for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

2. The petition with its enclosure should be returned.

By order,

Draft C 5/10/95

~~Chief~~ Revenue Secretary.

~~BANGALORE~~, Camp Mysore, 5th October 1895.

9.

Sr. 1/10.

M.G.C.P.B.—25-4-95—1,000

Rec'd 9/10

Subject with reference to the 2nd cl. order on the abstract of petn 1126 of 11.9.95

12.4.98

2 R 85-95-3

From

The Deputy Commissioner

of the Mysore District.

To

The Secretary to the Government of Mysore,
General and Revenue Departments.

Dated 5th
Despatched } April 1898.
Received

Enclosures No. Petition No. 1176 with enclosures Kannada records.

General No. 1149

Reporting on the appeal petition from Puttashamaiya, Son of Linddanna, residing at Maddur, Mandya Taluk, regarding the sale of his Khata lands at Nagarakere.

The enquiry report of the Asst Comr shows that the sale of Sy No 14 was prima facie fraudulent under Sec 110 of the L R Code, the petr was entitled to escape the liability for the assessment on the subdivision not belonging to him by resigning his own share & this he accordingly did though he could informally

A good test of the bona fides of the sale would be whether the ostensible purchaser has since transferred the land to a servant of the Shanbogue, as alluded to in the report. There is nothing in the V Records to show that this transfer has been made

Rd & 2nd Consdd 18/4/98

Rd 8.4.98.

Ascertain this & report for hearing in the normal course after one month

Rd 29/4/98

Petition Rd 9-4-98

Rd 11/4. Refs putup.

AK 11/4/98.

Docket & the D Comr. 28/4/98

& the Asst 29/4/98

No. 1149

Enclosures No. Petition with its enclosures + Record -

OFFICE OF THE Deputy Commissioner

MYSORE DISTRICT,

Dated Mysore 5th April 1898.

To

The Secretary to the Government of Mysore,
General and Revenue Departments.

SIR,

Adverting to your official memorandum No. Pet/759 dated 5th October 1895, forwarding for report an appeal petition from Putta shamaiya, son of Muddamma, residing at Maddur, Mandya Taluk, regarding the sale of his Khata lands at Nagarakere in the said Taluk, I have the honor to submit herewith as per accompanying Tarish the proceedings connected with the case and to state as follows:—

2. The appellant and one Linga (a minor) were the joint holders of Khata No. 101 of Nagarakere Village, Mandya Taluk, and it consisted of the marginally noted lands measuring 1—22 assessed at Rs. 3-4-0.

	A.	G.	
Survey No. 145 - 0 - 27	—	2	8-0
" 199 - 0 - 20	—	0	8-11
Do. - " - 199 - 0 - 20	—	0	4-11
Do. - " - No 206 - 0 - 15	—		3-4-"
		1	22

Explanation - Assessment

3. On the 30th April 1890, Javarayinavaru Ninga, a paikidar of Survey No. 199 in

which

which he held 2 – 10 assessed at Rs. 3 pre =

sented a razinama[x] to the Talukh Cutcherry (Exhibit No 44)
intimating his intention of relinquishing
his share of the land at the close of the
year Virodhi (1889-90) and the appellant
was thereupon served with a notice[x] on (No 45)
the 14th September 1890 requiring him to
take up the relinquished portion of the
No or surrender his share to Government.
The appellant endorsed a note at the
foot of the notice declining to take up
the portion relinquished by Javarayma
Ninga and placing his own share at
the disposal of Government; but the
entire No seems to have been entered
in the appellant's Khate for 1890-91 on
the ground that his share thereof had
been cultivated with ragi in that year.
The notice was also served on Lin-
gamma mother and guardian of
Linga the joint Khatedar by a copy
thereof

The Surrender Cond Laws & Acts of 1891-92 only Sec

thereof being affixed to her house on the aforementioned date. She was reported by the Shekdar to have refused to sign the notice and denied all knowledge of the lands.

4. A sum of Rupees 5-2-3 being the assessment &c (deducting payments) due on the lands comprised in the appellant's Khatē for the year Vikruti (1890-91) having fallen into arrears, a demand notice × dated 4th August 1891 was served on him on the 11th idem, and Linganna, mother of the joint Khatēdar Linga, is stated to have refused to accept service of the notice. × (No 6/1)

5. Survey No 199 and the part of No 148 held by the appellant and the said Lingas were forfeited in September and advertised for sale on the 26th December 1891. The sale notice × which is dated 18th November 1891 purports to have been published in the village on the 25th idem and bears the signature of the appellant. × (No 6/4)

Linganna

Linganmma, mother of Linga (minor) is reported to have refused to sign the notice.

6. The lands were sold by the Noble shekdar on the 26th December 1891 in satisfaction of the arrears but no bids having been offered for No. 199, the same was bought in by him for Government for the nominal price of one pie, while No. 148 was knocked down to one Chennapatnada Nara-mappa for Rs. 9 alleged to be the highest amount of bid received at the sale.

†(No 6/5) The sale list† does not bear the signature of the appellant. The Amildar in submitting the proceedings† to the

†(No 7) Sub Division Officer, French Rocks, on the 14th July 1892, requested confirmation of the sale of No. 148 and recommended the cancelment of the sale of

No.

No. 199, the reason assigned by him for such recommendation being that the sale of the first mentioned land had more than satisfied the arrears which had at the time risen to Rupees 6-10-3 including notice fees, interest &c.

7. In his Order No. 407† dated 5th August 1892, the Sub Division Officer informed the Amildar that if the appellant gave a written consent to retain Survey No. 199 the same might be restored to him but that if he was unwilling to do so the land must be bought in for Government for a nominal price and the usual bill submitted. Though this order conveyed no confirmation of the sale of Survey No. 148, the Amildar seems to have presumed such confirmation from it as is evident from his talati's† to the

† (No 8)

† (No 9)

Noble

Hobli Shekdar No. 152 dated 16 September 1892 in which he intimated to that official that the sale of the said No. had been confirmed by the Sub Division Officer and directed him to take necessary actions in respect of the same and to forward the appellant's statement as to his intentions in regard to Survey No. 199. The appellant declined to have anything to do with Survey No. 199 and stated that he was not aware of the sale of No. 148 and that he had been and was ready to pay all arrears due upon the latter. He complained that Survey No. 148 had been sold fraudulently and without his knowledge.

8. The appellant's complaint and allegations as set forth in his petitions

to

to the Amildar and the Sub Division Officer, as also in the statements given by him from time to time before the Shekdar and the Amildar may be summed up as follows:—

(a) that Survey No 199 had been improperly included in his Khate for Vikruti (1890-91) in spite of his relinquishment of his share in the same;

(b) that he was not aware of the land having been cultivated with rice by his tenants in that year;

(c) that he had received no rent from his tenants either in Vikruti or in any of the previous 4 or 5 years during which the latter had possession of the lands as his lessee;

(d) that at the time he was served with a demand notice, he tendered payment of the

assessment

assessment due by him exclusive of what had been charged in respect of No. 199 relinquished by him but that the Shanbhag and Shekdar declined to receive the same unless the full amount under demand was paid up,

(E) that the Shanbhag told him that Survey No. 199 would alone be proceeded against for the recovery of the arrears and that if the full amount demanded was realised at the sale thereof, the appellant might save the money offered by him for Survey Nos. 148 and 208;

(F) that the appellant though literate had signed the sale notice without feeling any necessity to turn it over to see if Survey No. 148 had been included

included in it as the Shanbhog had previously inveigled him into a belief that Rs 199 only had been forfeited and would be sold in satisfaction of the arrears;

(g) that Survey No 148 worth more than Rs 200 had been clandestinely and collusively sold by the Sheristdar and the Shanbhog and that the latter had bought the same benami for a trifle getting one Channapatnada Naranappa to figure as a name-lender in the transaction; and

(h) that the Shanbhog had since got the land transferred to the name of one Nanjundiah a servant in his employ and that he had been attempting to dispose of the same for a large profit.

9. The applicants' first complaint† on the subject is contained in his petition to the Amildar dated 27th September 1892 and he states that he preferred † (No 4)

it

it as soon as he ever became cognizant of the fact of Survey No. 148 having been sold.

10. Linganamma, mother and guardian of the joint Khatedar Linga also complained† of the sale of Survey No. 148 and denied all knowledge of the demand and sale notices. She states that she would have paid up the arrears if a demand had been served on her for the same.

†(No 11)

11. Thereupon much correspondence passed between the Amildar and the Sub Division Officer from November 1892 to September 1894 in order to ascertain inter alia whether the Khatedar's land had been aggrieved by the sale and whether there were any irregularities vitiating the same. In the mean time, the taluk authorities apparently without authority transferred

the

the patta of the land to the name of the auction purchaser Channapalinada Naranappa in 1892-93.

12. In pursuance of the Sub Division officer's order, the Amildar held an enquiry and examined a number of witnesses for an elucidation of the facts of the case.

13. The evidence of the Patil[x] and of the Shekdar's peon[x] goes to show that the intended sale was not duly published; that it was held with undue privacy in the village temple, that the only persons present at the time were these two witnesses, the Shanbhog, the Shekdar and Channapalinada Naranappa, and that the peon was simply told by the Shekdar and Shanbhog to cry out once, twice, and thrice without

[x] (No 19/3)
[x] (ditto)

being

being given any information as to the land he was to auction. Neither the peon nor the Patil seems to know what land was sold.

14. The Shanbhog denies all personal knowledge of, and his presence at, the sale, as also of the service of the demand and sale notices, while the Shekdar has deposed that the Shanbhog was present at the time and that he (Shanbhog) wrote with his own hand at the foot of the sale list the names of a number of persons alleged to have attended the sale and touched the pen in token of such attendance. These persons some of whom are stated to have been amongst the bidders deny all knowledge of the sale and their presence at it.

15. The Shekdar has since left the

Revenue

Revenue Department and taken up em=
ployment as a Writer in the Bangalore
Central Jail. During his examination
before the Amildar on the 30th September
1893, he first deposed† that the Shanbhog
was not present at the sale and then
that he was present. He tried to ex=
plain this contradiction by saying
that his first statement was due to
forgetfulness and that he subse=
quently corrected himself on referring
to the Narazpatte which contained
the hand writing of the Shanbhog.
He could not however account for
the Shanbhog's omission to affix his
signature to the Narazpatte if he was
present at the sale.

† (No. 27)

16. The Shanbhog's writing at the
foot of the sale list differs from that
appearing in the attachment list and

may

may probably have been written with a feigned hand.

17. The Palêl who is illiterate denies having signed the attachment list and the sale notice, while he is alleged to have touched the pen in acknowledgment of the contents of these papers having been made known to him. He states that a year after the sale, the Shanbhog informed him that he /Shanbhog/ had deprived the appellant of his land and that he was going to get a sale deed for Rs 40 executed in respect of the same in the name of Nanjappa, a servant employed in his house.

+(2026) 18. One Venkatagiri Setti has deposed to the fact of an admission by the Shanbhog that this deception was practised by him on the appellants because the latter had sold away to a

third

third party a piece of dry land which he had purchased from the Shanbhog on the understanding that it was to be reconveyed to him in case he (Appellant) wished to dispose of the same.

19. Ninga, Cultivator of the Appellant's land in question states that the Shanbhog claimed the produce thereof and the execution of a Saguvali Kanar in his favor and that on his refusing to comply with his wishes he threatened to put him (Ninga) in Court and issued a notice requiring him to deliver the produce to himself. He adds that he received a similar notice from Naranappa the alleged purchaser of the land.

20. The evidence taken down by the Amildar having been submitted by him to the Sub Division Officer with his report No 476 dated 8th December 1898, that Officer called for (No 28)

further

further particulars and under his orders the amount of purchase money with interest at one per Cent per mensem was recovered from the Appellant on the 2nd April 1894 evidently with a view to the same being refunded to the purchaser and the sale cancelled.

21. Finally the Sub Divn Officer on receipt of the Amildar's further report and a reminder from him pressing for an early disposal of the case issued an order No 333 X dated 19th September 1894 declining to cancel the sale on the ground that the same had been held after due notice to the Appellant and that the patta of the land had been transferred to the name of the purchaser. We held that the appellants Complaint in the matter after a lapse of 9 months from the date of sale was inadmissible and directed the refund

X (Ex 37)

to

to the appellant of the amount that had been received from him for payment to the purchaser. A sale certificate in respect of the land in question was issued to Iranappa by the Sub Division Officer in February 1895.

22. The appellant petitioned † this Office on the 25th January 1895 appealing against the Sub division Officer's order referred to above but my predecessor Mr B. K. Venkatavaradiengar granted him an endorsement No 34 † dated 4th July 1895 rejecting the appeal on grounds similar to those advanced by the Sub Division Officer. † (W 41). † (W 41/2)

23. Puttashamaiya has now appealed to Government against the said Order.

24. There is nothing in the records to show that the sale was ever formally confirmed by the Sub Divn Officer or any other Competent authority, but on the contrary a perusal

+(W 14) of the Sub Division Officers order No 1058 dated 3d May 1893 and the Amildar's
+(W. 28) report No 476 dated 8th December 1893 will clearly show that till the date of that report the sale had not been confirmed while the patta of the land (Survey No 148) had already been unauthorized & transferred by the Amildar to the name of the alleged auction purchaser Narayappa

25. Though the appellant who is literate and who has admittedly signed the demand and the sale notices cannot legally stand upon his plea of want of knowledge of the sale, the evidence recorded in the case which is characterised by various irregularities and complications goes a long way to support his allegations that he was ignorant of the intended sale of Survey No 148 and renders it extremely

difficult

difficult to believe that the sale was duly published or regularly held in an open manner so as to avoid substantial injury or damage to the Khatedars. The absence of an express order confirming the sale is also a serious legal defect.

26. Another irregularity observable from the proceedings is that the Appellant was served with a demand notice on the 17th June 1892 for the arrears due on Survey Nos 199, 148 and 208 for the year Khara (1891-92) and the land (Survey No. 148) which had already been sold was again placed under forfeiture on the 18th September 1892 for the recovery thereof. The Appellant to whom the order of forfeiture was shewn on the 11th October 1892 readily paid the amount under demand exclusive of what had been charged in respect of Survey No 199 relinquished by him +(No 1)

him and the same was received by the Shekdar and remitted to the Taluk Cutcherry on the same date. (Vide Shekdar's report Rs. 331 of the 11th October 1892). The Amildar thereupon directed the Shekdar in Takid Rs. 236 dated 20th October 1892 to recover from the party concerned the balance due on Survey No. 199 which had also been sold and bought in for Government for a nominal price owing to want of bids at the sale. The Shanbhag was called upon to explain this anomalous procedure and he stated that the issue of a demand notice to the Appellant for the arrears due for Kharif (1891-92) was due to the sale of the lands not having till then been confirmed. It may here be remarked that the Amildar's order placing Survey No. 148 under forfeiture for a second time was recorded two days after he had issued a Takid

to

to the Shekdar intimating, though
without authority that the sale
of the said land had been Con=
firmed by the Sub Division
Officer.

27. The conduct of the Shekdar
and Shanbhog as disclosed by the
proceedings in the case and as
reported by the late Amildar
Rayu Mudaliar is open to
grave suspicion but the former
has since left the Department.
The present Amildar also reports
that the Shanbhog is a man of
a questionable character and
that the records available in the
Taluk Office show that he has
been guilty of several irregularities
and punished with fines for the
same. —

The

28. The enclosures of your memorandum under reply are here with returned.

I have the honor to be,
Sir,
Your most Obedt Servant.

Asst & Dpty Commissioner
of the Mysore District

Compd
ULS

(4) 1898

From

The Secretary to the
Government of Mysore,
Gen. & Rev. Depts.

To

The Deputy Commr,
Mysore District

LR 101-95-4

~~L.R. 85-95-4~~

Dated 6th May 1898.

Despatched 7

Received

General No. 10635-P

P. No. 1366

Enclosure No.

His letter No. 1149 dated 5th April 1898 reporting on the petition of Puttashamaiya of Maddur, Mandya Taluk, regarding the sale of his lands at Nagarkere in the Mandya Taluk.

With reference to the above has the honor to request that he will be so good as to report whether the ostensible purchaser of the lands viz Chennapatnada Narayanappa, has since transferred the land to a servant of the Shanbhog as alluded to in the report.

The records received with the above are herewith forwarded for reference and resubmission.

By Order

for Secy.

Draft
Bbn

+ 23-5-1898

6-5-98

Pet 27
DEWAN'S OFFICE

Posted 6-5-th September 98.

LR 101-95-5

~~L.R. 85-95-5~~

From

The Deputy Commissioner

Mysore District.

To

The Secretary to the Government of Mysore,
General and Revenue Departments.

Dated 20th July 1898.
Despatched
Received

Enclosures No. File of correspondence

General No. 63

Submitting further report on the petition of Puttashamaiya of Maddur.

Petitioner
25/7

26/7

Reps put up

AK
27/7/98

Mr Smith to submit
28/7/98

No. 63

Enclosures No. File of correspondence.

OFFICE OF THE Deputy Commr.
MYSORE DISTRICT,
Dated Mysore 20th July 1898

To

The Secretary to the Government of Mysore,
General and Revenue Departments.

SIR,

Adverting to your docket No. 10635 / Pet. 1366 dated 7th May 1898, calling for further report on the petition of Puttashamaiya of Maddur, regarding the sale of his land at Nagankeré in the Mandya taluk, I have the honor to resubmit herewith, as per accompanying Extract, the records received with the above together with an additional file of papers, ending with the French Rocks Sub-Division Officer's yadi No. 47 dated 7th Instant on the subject.

2. It will be observed from the Amildar's report No. 1295 dated 30th June 1898 and its enclosures, that the land survey No. 148 has not been transferred by Hennapadnada Naranappa to Ranjappa (also called Nanjundiah) referred to in para 17 of this Office letter No. 1149 dated 5th April 1898; but that the same has come into the possession of the latter by virtue of a decree passed in his favor × by the Munsiff of Seringapatam, in original suit No. 924 of 1894-95, ⊗ in which the sale of the land to him (Ranjappa) by Naranappa was contested by

× in pursuance of a sale-deed conveying the land to Nanjappa

⊗ Vide Copy of judgt. in the vernacular proceedings

by the petitioner (Puttashamaiya) and others as defend-
:ants -

I have the honor to be,
Sir,
Your most obdt. servant,

Deputy Commissioner,
Mysore District.

LR 101-95-6

LR 85-95-6

From (5) Mysore

To

The District and Sessions Judge
Ashtagram Dt.
Mysore.

Dated 24/8/98.

Despatched

Received

General No. 1500. P.

P. J. No. 11-98

Enclosure No.

O.S. No 924 of 1894-95 in the file of the Munsiff of Seringapatam.

Nanjundaiya & Linge Gauda and 3 others.

Has the honour to request that the records of the marginally noted case may be forwarded to this office before the 1st Proxo., for reference in connection with Appeal No 177 of 1895-96 (Puttasamy & Venkatasubbaiya and another) which is pending before Govt.

By order

Draft

C.

For Secretary.

SV.
24/8/98

From

~~To~~ The Dy Commr Tuticorin District.

LR 101-95-7

~~LR 85-95-7~~

Dated 21st

Despatched 22nd Sept/98

Received

General No. 2498 A

P.J No. 11-98

(291)

Enclosure No. one Ver: file.

In returning the records received with the Dy Commr's letter No 63 of 20th July 1898, relating to the appeal of Puttasamaiya of Maddur, Inandya Taluk, has the honour to state that Govt regret that there ~~was~~ has been a scandalous delay of 2½ years in submitting the report called for in this office Memorandum No Rev 759 dated 5th October 1895; and ~~hope~~ trust that the Dy Commr will take the necessary steps

delay in future.

By Order

Draft:

C/

For Secretary.

SC
14/9/38.

From

Lr 101-95-8

~~Lr 85-95-8~~

To

The District Judge
Mysore

Dated 21st

Despatched 22nd Sept/98

Received

General No. 2499. P.

P.F. No. 11-98

(273)

Enclosure No. one V. file

Has the honour to return the records in O.S. No 924 of 1894-95 on the file of the Munsiff of Seringapatam, received with his docket No 1913/3 dated 26th ultimo.

By Order

For Secretary.

Draft.

S.V.
14/9/98

~~O.R. 85-95-9~~

Sub[d] to H[is] Council

Draft for approval

May a copy be sent to the Registrar Chief Court?

16/9/20

Proceedings of the Govt of Mysore

Appellant — Puttaswamaiya

Respondents — (1) ~~Venkatasubbaiya~~ Nanjundaiya

(2) Narasappa

Read:—

(1) Petn of appeal No. 177/1196 of 1895-96 presented by Puttasamaiya of Maddur, Mandya Taluk, against the order of the Dy Commr of Mysore declining to cancel the sale of a portion of S. No 148 of Nayarkere in the Mandya Taluk.

and papers as per docket

(2) Correspondence ending with letter No 634 dated 20th July 1898 from the Dy Commr, Mysore District, submitting further report on the above petition.

16/9

(3) Records of the case received with the above letter, and also the records of O.S. No 924 of 1894-9 on the file of the Munsiff of Seringapatam & Nanjundaiya & Lingegauda, Puttasamaiya and others), received with docket No 194/3

dated 26th August 1898, from the District Judge, Mysore.

The facts of this case are briefly these:—

I Appellant Puttasamaiya and his minor step-brother, Linga (represented by his mother Lingamma) were joint Khalidars of portions of S. Nos. 148 and 199. In April 1890, one J. Nanja, occupant of the other portion of S. No 199 relinquished his portion, and the appellant and his brother were called upon by a notice, to state whether they would take up the relinquished portion or relinquish their portion also. Appellant noted at the foot of the notice his willingness to relinquish his portion while Lingamma denied all knowledge of the land. But the whole of the land was entered in the appellants' Khata for 1890-91. A sum of Rs 5-2-3 due on the appellants' Khata having fallen

Order thereon No. 2490-97 & 21/9/98
P.F. 11-98 22

into arrears, the said land together with the portion of S. No 148 was attached and put up for sale on 26th Dec 91. Survey No 199, for which there was no bidder, was purchased for Govt, and the other land was Knocked down to 2nd Respondent, Narayappa for 89. The Amildar recommended confirmation of the sale of No 148 and cancellation of that of the other, on the ground that the whole amount of arrears was realised by the sale of the former land. On 5th August 92 the Subordinate directed that No 199 might be restored to the appellant, if he was willing to have it, and that if not, it might be resumed to Govt. The Amildar assumed that the above order conveyed confirmation of the sale of S. No 148, and directed the Shekdar to take the necessary action

and to ascertain the appellants' wishes ~~as to~~ regarding the other land. The appellant ~~to whom the above order was communicated~~ declined to have anything to do with the land, stating that he had already resigned it.

II E. In the meanwhile, a notice of demand was issued to the appellant on 10th June 92, for arrears of Kandayam due on S. No 199 and part of No 148 ~~of~~ for the year 1891-92, ~~the~~ as well as other lands; and ~~on~~ on 30th July ~~the~~ part of No 148, the land in question, was placed under attachment. But the appellant paid the arrears except what was due on S. No 199.

B. III In September 1892, the appellant complained to the Amildar and subsequently to the Sub Division Officer, that S. No 199

was

was included in his Khata in spite of his relinquishment, that when a demand notice was issued to him, he tendered the arrears except the assessment on S. No. 199 but, that the Shekdar and the Shanbhog refused to receive the same, unless the whole amount was paid up, that the Shanbhog led him to believe that only No 199 was attached and was to be sold, brought about the sale clandestinely and collusively and purchased the land himself for a low price, Naranappa being only a ~~benamidar~~ nominal purchaser.

4. During the enquiry held by the Amildar in pursuance of the Sub Div. Officer's order, Patel Kuche Gauda, and the Shekdar's peon Sidda stated that the sale

was held in the village temple (contrary to the Haraz Patti wherein the sale is stated to have been held near the land), that besides themselves, only 3 persons were present at the sale, viz, the Shekdar, the Shanbhog and the purchaser Naranappa, and that they were not informed that the sale referred to the appellant's land. The Shanbhog denied all personal knowledge of the sale and his presence at the time. But the Shekdar deposed that the Shanbhog was present and wrote with his own hand, at the foot of the Haraz Patti, the names of a number of persons to show that they were present at the sale. Of these persons, four that were examined denied all knowledge of the sale. The Patel and one Venkatapiri Setti deposed that

that, long after the sale, the Shanbhog admitted before them his having fraudulently deprived the appellant of the land. The Patel denied having signed the attachment list and the sale notification.

V 5. In September 94, the Sub Dy Collr to whom the records were submitted declined to cancel the sale, and his order was confirmed on appeal by the Deputy Commr in July 1895. The present appeal to Govt is against the above order.

VI 6. While the enquiry above referred to was still going on, the Patta of the land was transferred in 1892-93, to the name of Naranappa who on 10th April 1893 conveyed the land to 1st Respondent — Nanjundaiya (said to be the Shanbhog's servant) for Rs 40.

The latter filed a suit in 1895, in the Court of the Munsiff of Seringapatam for possession of the land in and obtained a decree on 20th January 1896.

2. The [illegible] by Commr has reported that there is nothing to show that the sale was ever formally confirmed by any competent authority, and that the evidence recorded renders it extremely difficult to believe that the sale was duly published or regularly held in an open manner so as to avoid substantial injury or damage to the Khalēdars.

Order.

2. On a careful perusal of the proceedings and the report-

summarized above
report of the Dy Commr, Govt are
of opinion that there was material
~~gross~~ irregularities ~~fraud~~ in publishing and conduc-
ing the sale of land S. No 148 in
question, and that a deception
was practised by the Shanbhog
in collusion with the ostensible
purchaser to deprive the
appellant of the land.

3 &. The facts disclosed
during the Amildar's enquiry,
~~above~~ and set forth fully in
the D Commr's report
para 4 of the statement of facts
read above, support the
appellant's contention that the
sale was fictitious.

3 B. There was actually
no confirmation of the sale as
pointed out by the D Commr
~~in para 1 of the~~
~~statement of facts~~.

No 55

~~Survey on which~~ the Land (Suit No 148

4. ~~The irregularities~~ Mr Mardines ~~in~~ was stated under attachment for a
~~Thompson~~ Sub in December 1891 ~~and~~ ~~in~~ ~~para 2 of the said statement~~ due by the
~~is another piece of evidence~~ This Land, Patta & the truth of the appli allegation,
~~to prove~~ that the Shanbhog
was at the ~~bottom of the~~ ground
~~book fraud that was perpet~~
~~rated on the appellant, and~~
~~by which the sale was effected~~.

5. The sale took place on
26th December 1891, and the appellant's
first complaint, in regard to
it was laid on 27th September
1892. While this complaint was
pending enquiry and correspondence
was being carried on between the
Amildar and the Sub-Officer,
from November 92 to September 94,
the Taluk authorities irregularly
~~and illegally~~ allowed the Patta
to be transferred to the purchaser
name.

6. The order of the Sub or
Officer

Officer declining to cancel the sale was passed on 19th Sept: 94. The appeal to the Dy Commr was filed in January 95 and disposed of on 4th July 1895; and this appeal to Govt was instituted on 11th September 95: While the proceedings in connection with the revenue sale were pending. the final orders of the Dy Commr, and Govt, the purchaser, without taking steps under Section 187 of the Land Revenue Code, to obtain possession of the land purchased (through the Dy Commr) assigned over his alleged right under the revenue sale to 1st Respondent Nanjundaiya and caused the latter to file a Civil Suit (No 924 of 1894-95 on the file of the Seringapatam Munsiff's Court) and to obtain a decree for

for possession. ~~The Civil proceedings~~
~~are null and void, and~~, as
held by the Chief Court, in
~~the~~ S. A. No 32 of 1892, Venkatakrishnaya
Mysore Law Reports Vol XVI p 18,
~~&~~ Subraya, a claim to recover
possession of land sold for
realization of Revenue due to
Govt is a claim of the kind
falling under clause (c) of Section
221 of the Mysore Land Revenue
Code, and "not cognizable by a Civil
Court". The decree of the Munsiff
in the Civil suit aforementioned
is therefore no bar to Govt disposing
of the present appeal.

7. For reasons already
stated, Govt consider that the
Revenue sale is tainted with
fraud and cannot therefore
be upheld. It is accordingly
cancelled and set aside.

9870
Govt

16-9-98

Draft:
C, 2

For Secretary.

To
The Dy Com
Mysore Dist
&
Collector

Proceedings of the Govt. Pleader

Appellant – Puttaswamayya
Respondents – (1) Ranjundiah
(2) Narnappa

Read :–

(I) Petn. of appeal No 177/1196 of 95-96 presented by Puttasamaiya of Maddur, Mandya Taluk, ~~appealing~~ against the order of the Dy Commr. of Mysore declining to cancel the sale of a portion of S. No 148 of Nagarkere in the Mandya Taluk

(II) Correspondence ending with letter No 63 dated 20th July 1898 from the Dy Commr, Mysore District, submitting further report on the above petition

(III) Records of the case received with the above letter as also the records of O.S. No 924 of 1894-95 on the file of the Munsiff of Seringapatam (Ranjundiah ~~V~~s Linga Gowda, Puttaswamiah and Others) received with docket No 1913/3 dated 26th August 1898 from the District Judge, Mysore

Order thereon No 2490-97 P.T. 11-98

Dy 21/22 9-9-98 Env. Nil.

The facts of this case are briefly these :–

Noted AR 8-10-98

Appellant

Appellant- Puttusamayya and his minor step-brother, Linga (represented by his mother Linigamma) were joint Khatedars of portions of S. Nos 148 and 199. In April 1890, one J. Ninga, occupant of the other portion of S. No 199 relinquished his portion, and the appellant and his brother were called upon, by a notice, to state whether they would take up the relinquished portion or relinquish their portion also. Appellant noted at the foot of the notice his willingness to relinquish his portion while Linigamma denied all knowledge of the land. But the whole of the land was entered in the appts Khata for 1890-91. A sum of Rs 5-2-3 due on the appellants Khata having fallen into arrears, the said land together with the portion of S. No 148 was attached and put up for sale on 26 Dec. /91. Survey No 199, for which there was no bidder, was purchased

was knocked down to 2nd Respt Ramappa for Rs 9. The Asstdar recommended confirmation of the sale of No 148 and cancellation of that of the other, on the ground that the whole amount of arrears was realized by the sale of the former land. On 5th August 92, the Subdv Officer directed that No 199 might be restored to the appellant, if he was willing to have it, and that if not, it might be resumed on behalf of Govt. The Asstdar assuming that the above order conveyed confirmation of the sale of S. No 148, directed the Shekdar to take the necessary action and to ascertain the appellant's wishes regarding the other land. The appellant declined to have anything to do with the land, stating that he had already resigned it.

II. In the meanwhile, a notice of demand was issued to the appellant on

0ⁿ June/92, for arrears of
kudiyaram due on S. No 199
and part of No 148 as well as other
lands for the year 1891-92, and
on 30ᵗʰ July part of No 148 the
land in question, was placed
under attachment. But the
appellant paid the arrears except
what was due on S. No 199.

II In September 1892, the appellant
complained to the Tahsildar and
subsequently to the Sub Dᵉ Officer
that S No 199 was included
in his Khata in spite of his
relinquishment, that when a
demand notice was issued to
him, he tendered the arrears
except the assessment on S. No
199 but that the Shekdar and
the Shanbhog refused to receive
the same, unless the whole
amount was paid up, that
the Shanbhog led him to believe
that only No 199 was attached
and was to be sold, brought

clandestinely and collusively and purchased the land himself for a low price, Narnappa being only a nominal purchaser.

III. During the enquiry held by the Amildar in pursuance of the Sub Dy Asstt's order, Patil Huche Gowda, and the Shekdar's peon Siddu stated that the sale was held in the village temple (contrary to the Haraj Patti wherein the sale is stated to have been held near the land), that besides themselves, only 3 persons were present at the sale, viz the Shekdar, the Shanbhog and the purchaser Narnappa, and that they were not informed that the sale referred to the appellants' land. The Shanbhog denied all personal knowledge of the sale and his presence at the time. But the Shekdar deposed that the Shanbhog

was present and wrote with
his own hand at the foot of the
Paraz Patti the names of a
number of persons to show
that they were present at the
sale. Of these persons four
that were examined denied
all knowledge of the sale. The
Patel and one Venkatagiri Setti
deposed that, long after the sale,
the Shanbhag admitted before
them his having fraudulently
deprived the appellant of the
land. The patel denied having
signed the attachment list
and the sale notification.

V. In September 1894 the Sub Dy
Asst to whom the records were
submitted declined to cancel
the sale, and his order was
confirmed on appeal by the
Dy. Commr in July 1895. The
present appeal to Govt is
against the above order.

VI While the enquiry referred
to above was still going on

transferred in 1892-93 to the name of Narayappa who on 10th April 1893 conveyed the land to 1st Respondent Nanjunda for Rs 40. The latter filed a suit on 12th February 1895 in the Court of the Munsiff of Seringapatam for possession of the land and obtained a decree on 20th January 1896

VII The Deputy Commr has reported that there is nothing to show that the sale was ever formally confirmed by any competent authority, and that the evidence recorded renders it extremely difficult to believe that the sale was duly published or regularly held in an open manner so as to avoid substantial injury or damage to the Khaledars.

VIII On a careful perusal of the proceedings and the report of the Dy Commr summarized

above, Govt are of opinion
that there was material irregularity
in publishing and conducting
the sale of land S. No 148 in question
and that a deception was practised
by the Shanbhog in collusion
with the ostensible purchaser
to deprive the appellant of the
land.

IX There was actually no con-
firmation of the sale as pointed
out by the Dy Commr.

X Though the land (S. No 148)
was sold in December 1891, yet
it was again placed under
attachment for arrears due
by the appellant. This lends
probability to the truth of the
appts allegation that the
Shanbhog was privy to the
fraud.

XI The sale took place on the
26th Decr 1891, and the appts
first complaint in regard to
it was laid on 27 September
1892. While this complaint

complaint was pending enquiry
and correspondence was
being carried on between the
Amildar and the Sub Dy
Officer from November 1892
to Septr 1894, the Talatie authority
irregularly allowed the Patta
to be transferred to the
purchaser's name
XII The order of the Sub-
Dy Officer declining to cancel
the sale was passed on 19th
Septr 1894. The appeal to the
Dy. Commr was filed in
January 1895 and disposed of
on 4th July 1895, and this appeal
to Govt was instituted on 11th
Septr 1895. While the proceedings
in connection with the revenue
sale was pending the final
orders of the Dy Commr and
Govt the purchaser without
taking steps under Section
187 of the L. R. Code, to obtain
possession through the Dy
Commr of the land purchased

assigned over his alleged
right under the revenue
sale to 1st Respondent Nara-
jindra and caused the latter
to file a Civil Suit (No 924
of 1894-95 on the file of the
Serungapatam Munsiff's Court)
and to obtain a decree for
possession. As held by the
Chief Court, in S.A. No 32 of
1892, Venkatakrishnia
Subroya, Impsons Law Reports
Vol: XVI p. 18, a claim to
recover possession of land
sold for realization of revenue
due to Govt is a claim of the
kind falling under clause (c)
of Section 221 of the Mysore
L.R. Code and is not cognizable
by a Civil Court. The decree
of the Munsiff in the Civil
Suit aforementioned is therefore
no bar to Govt disposing of
the present appeal.

XIII For reasons already

stated, Govt. considers that the revenue sale is tainted with fraud and irregularity and cannot therefore be upheld. It is accordingly cancelled and set aside

Draft
C.H.Z

for Secretary

To The Deputy Commr.
Mysore Distt.
" Commrs of Ntes
Distts

Rosaugh

1898-99

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 21*st September* 1898

No. 2490-97 / P. F. 11-98

Passing orders on the appeal of Puttaswamaiya of Maddur, Mandya taluk, and cancelling the sale to Narnappa of a portion of Survey No. 148 of Nagarkere, Mandya taluk, on the ground that the sale is tainted with fraud and irregularity.

MGCPB—4-10-98—200

Appellant	*Vs.*	*Respondent*
Puttaswamaiya.		(1) Nanjundaia (2) Narnappa.

READ—

(1). Petition of Appeal No. 177—1196 of 1895-96 presented by Puttaswamaiya of Maddur, Mandya taluk, against the order of the Deputy Commissioner of Mysore, declining to cancel the sale of a portion of Survey No. 148 of Nagarkere in the Mandya taluk.

(2). Correspondence ending with letter No. 63, dated 20th July 1898, from the Deputy Commissioner, Mysore District, submitting further report on the above petition.

(3). Records of the case received with the above letter, as also the records of O. S. No. 924 of 1894-95 on the file of the Munsiff of Seringapatam (Nanjundaiya *vs.* Lingegauda, Puttaswamaiya and others) received with docket No. 1913—3, dated 26th August 1898, from the District Judge, Mysore.

No. 2490-97—P. F. 11-98, DATED BANGALORE, 21ST SEPTEMBER 1898.

ORDER THEREON.—The facts of this case are briefly these:—

I. Appellant Puttaswamaiya and his minor step-brother Linga (represented by his mother Lingamma) were joint khatedars of portions of Survey Nos. 148 and 199. In April 1890, one J. Ninga, occupant of the other portion of Survey No. 199 relinquished his portion, and the appellant and his brother were called upon, by a notice, to state whether they would take up the relinquished portion or relinquish their portion also. Appellant noted at the foot of the notice his willingness to relinquish his portion, while Lingamma denied all knowledge of the land. But the whole of the land was entered in the appellant's khata for 1890-91. A sum of Rs. 5-2-3 due on the appellant's khata having fallen into arrears, the said land together with the portion of Survey No. 148 was attached and put up for sale on 26th December 1891. Survey No. 199, for which there was no bidder, was purchased for Government, and the other land was knocked down to 2nd respondent, Narnappa, for Rs. 9. The Amildar recommended confirmation of the sale of Survey No. 148 and cancellation of that of the other, on the ground that the whole amount of arrears was realized by the sale of the former land. On 5th August 1892 the Sub-Division Officer directed that Survey No. 199 might be restored to the appellant, if he was willing to have it, and that if not, it might be resumed on behalf of Government. The Amildar assuming that the above order conveyed confirmation of the sale of Survey No. 148, directed the sheikdar to take the necessary action and to ascertain the appellant's wishes regarding the other land. The appellant declined to have anything to do with the land, stating that he has already resigned it.

II. In the meanwhile, a notice of demand was issued to the appellant on 10th June 1892, for arrears of kandayam due on Survey No. 199 and part of No. 148 as well as other lands for the year 1891-92, and on 30th July part of No. 148, the land in question, was placed under attachment. But the appellant paid the arrears except what was due on Survey No. 199.

III. In September 1892, the appellant complained to the Amildar and subsequently to the Sub-Division Officer that Survey No. 199 was included in his khata in spite of his relinquishment, that when a demand notice was issued to him, he tendered the arrears except the assessment on Survey No. 199, but that the sheikdar and the shanbhog refused to receive the same, unless the whole amount was paid up, that the shanbhog led him to believe that only No. 199 was attached and was to be sold, brought about the sale clandestinely and collusively and purchased the land himself for a low price, Narnappa being only a nominal purchaser.

IV. During the enquiry held by the Amildar in pursuance of the Sub-Division Officer's order, patel Huchegauda, and the sheikdar's peon, Sidda, stated that the sale was held in the village temple (contrary to the Haraz patti wherein the sale is stated to have been held near the land), that besides themselves, only three persons were present at the sale, *viz.*, the sheikdar, the shanbhog and the purchaser Narnappa, and that they were not informed that the sale referred to the appellant's land. The shanbhog denied all personal knowledge of the sale and his presence at the time. But the sheikdar deposed that the shanbhog was present and wrote with his own hand at the foot of the Haraz patti the names of

a number of persons to show that they were present at the sale. Of these persons, four that were examined denied all knowledge of the sale. The patel and one Venkatagirisetti deposed that, long after the sale, the shanbhog admitted before them his having fraudulently deprived the appellant of the land. The patel denied having signed the attachment list and the sale notification.

V. In September 1894, the Sub-Division Officer, to whom the records were submitted, declined to cancel the sale, and his order was confirmed on appeal by the Deputy Commissioner in July 1895. The present appeal to Government is against the above order.

VI. While the enquiry referred to above was still going on, the patta of the land was transferred in 1892-93 to the name of Narnappa, who, on 10th April 1893 conveyed the land to 1st respondent, Nanjundaiya, for Rs. 40. The latter filed a suit on 12th February 1895 in the Court of the Munsiff of Seringapatam for possession of the land and obtained a decree on 20th January 1896.

VII. The Deputy Commissioner has reported that there is nothing to show that the sale was ever formally confirmed by any competent authority, and that the evidence recorded renders it extremely difficult to believe that the sale was duly published or regularly held in an open manner so as to avoid substantial injury or damage to the khatedar.

VIII. On a careful perusal of the proceedings and the report of the Deputy Commissioner summarized above, Government are of opinion that there was material irregularity in publishing and conducting the sale of land Survey No. 148 in question, and that a deception was practised by the shanbhog in collusion with the ostensible purchaser to deprive the appellant of the land.

IX. There was actually no confirmation of the sale as pointed out by the Deputy Commissioner.

X. Though the land (Survey No. 148) was sold in December 1891, yet it was again placed under attachment for arrears due by the appellant. This lends probability to the truth of the appellant's allegation that the shanbhog was privy to the fraud.

XI. The sale took place on the 26th December 1891, and the appellant's first complaint, in regard to it, was laid on 27th September 1892, while this complaint was pending enquiry and correspondence was being carried on between the Amildar and Sub-Division Officer from November 1892 to September 1894, the taluk authorities irregularly allowed the patta to be transferred to the purchaser's name.

XII. The order of the Sub-Division Officer declining to cancel the sale was passed on 19th September 1894. The appeal to the Deputy Commissioner was filed in January 1895 and disposed of on 4th July 1895, and this appeal to Government was instituted on 11th September 1895. While the proceedings in connection with the revenue sale were pending the final orders of the Deputy Commissioner and Government, the purchaser, without taking steps under Section 187 of the Land Revenue Code, to obtain possession through the Deputy Commissioner of the land purchased, assigned over his alleged right under the revenue sale to first respondent Nanjundaiya and caused the latter to file a Civil Suit No. 924 of 1894-95 on the file of the Seringapatam Munsiff's Court) and to obtain a decree for possession. As held by the Chief Court, in S. A. No. 82 of 1892, Venkatakrishnaiya *vs.* Subraya, Mysore Law Reports Vol. XVI, p. 18, a claim to recover possession of land sold for realization of revenue due to Government, is a claim of the kind falling under clause (*c*) of Section 221 of the Mysore Land Revenue Code and is not cognizable by a Civil Court. The decree of the Munsiff in the Civil suit aforementioned is therefore no bar to Government disposing of the present appeal.

XIII. For reasons already stated, Government consider that the revenue sale is tainted with fraud and irregularity and cannot therefore be upheld. It is accordingly cancelled and set aside.

C. SREENIVASIENGAR,
Secy. to Govt.: Gen. & Rev. Dept.

To—The Deputy Commissioner, Mysore District.
The Deputy Commissioners of other Districts.

Exd.—J.A.P.

LR 101-95-10

4 drafts [illegible]

(7)

22 - 98

[illegible] 1196 [illegible]

[illegible]

~~L.R. 85-9-10~~ [illegible]

[illegible] 148 [illegible]

[illegible] 11-9-95

[illegible]

[illegible]

(1) [illegible]

(2) [illegible]

[illegible]

[illegible]

9-7-85

By Order

For Secretary.

14/9/85